



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-508-813]

Magnesium from Israel: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of magnesium from Israel. For information on the estimated subsidy rates, *see* the “Final Determination” section of this notice.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Ethan Talbott or Dana Mermelstein, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-1030 or (202) 482-1391, respectively.

Background

Commerce published the *Preliminary Determination* on May 8, 2019.¹ A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance’s Antidumping and

¹ *See Magnesium from Israel: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination* 84 FR 20092 (May 8, 2019) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM).

² *See* Memorandum, “Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Magnesium from Israel,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Investigation

The period of investigation is January 1, 2017 through December 31, 2017.

Scope of the Investigation

In accordance with the *Preamble* to Commerce's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope of the investigation). No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*.⁴ Therefore, Commerce is not modifying the scope language as it appeared in the *Initiation Notice*. See the scope in Appendix I to this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in August 2019, Commerce verified the subsidy information reported by the Government of Israel and by

³ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁴ See *Magnesium from Israel: Initiation of Countervailing Duty Investigation* 83 FR 58529 (November 20, 2018) (*Initiation Notice*).

Dead Sea Magnesium, Ltd. (DSM). We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the GOI and by DSM.

Changes Since the Preliminary Determination

Based on our analysis of our findings at verification and the comments received, we have made certain changes to the respondent's subsidy rate calculations. For discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(5)(A)(i) of the Act, for companies not individually examined, we apply an all-others rate, which is normally calculated by weighting the subsidy rates of the mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate should exclude zero and *de minimis* rates or any rates based entirely on facts otherwise available pursuant to section 776 of the Act.

Commerce calculated an individual estimated countervailable subsidy rate for Dead Sea Magnesium, Ltd. (DSM) and its cross-owned affiliates ICL Chemicals Ltd., ICL Israel Ltd., Dead Sea Works Ltd., Dead Sea Bromine Company Ltd., Rotem Amfert Negev Ltd., Bromine Compounds Ltd., and Fertilizers & Chemicals Ltd. Because the only individually calculated rate is not zero, *de minimis*, or based entirely on facts otherwise available, we are assigning the rate calculated for DSM to all other producers and exporters.

Final Determination

We determine the countervailable subsidy rates to be:

Company	Net Subsidy Rate (Percent)
Dead Sea Magnesium, Ltd ⁵	13.77
All Others	13.77

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the final determination or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all magnesium from Israel that was entered, or withdrawn from warehouse, for consumption on or after May 8, 2019, the date of the publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after September 5, 2019. If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of

⁵ This rate applies to DSM and its cross-owned affiliates: ICL Chemicals Ltd., ICL Israel Ltd., Dead Sea Works Ltd., Dead Sea Bromine Company Ltd., Rotem Amfert Negev Ltd., Bromine Compounds Ltd., and Fertilizers & Chemicals Ltd.

estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final affirmative CVD determination. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from Israel no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: November 21, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation¹

The products covered by this investigation are primary and secondary pure and alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size (including, without limitation, magnesium cast into ingots, slabs, t-bars, rounds, sows, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and any other shapes). Magnesium is a metal or alloy containing at least 50 percent by actual weight the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this investigation also includes blends of primary magnesium, scrap, and secondary magnesium.

The subject merchandise includes the following pure and alloy magnesium metal products made from primary and/or secondary magnesium: (1) products that contain at least 99.95 percent magnesium, by actual weight (generally referred to as “ultra-pure” or “high purity” magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent magnesium, by actual weight (generally referred to as “pure” magnesium); and (3) chemical combinations of magnesium and other material(s) in which the magnesium content is 50 percent or greater, but less than 99.8 percent, by actual weight, whether or not conforming to an “ASTM Specification for Magnesium Alloy.”

The scope of this investigation excludes mixtures containing 90 percent or less magnesium in granular or powder form by actual weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (A1203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.

The merchandise subject to this investigation is classifiable under items 8104.11.0000, 8104.19.0000, and 8104.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

¹ In the *Preliminary Determination*, we inadvertently included incorrect scope language. This appendix contains the correct scope language

Appendix II

List of Topics Discussed in the Final Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. Subsidies Valuation
- VI. Discount Rates
- VII. Analysis of Programs
- VIII. Discussion of the Issues
 - Comment 1: Whether the GOI's Contributions to the Remediation Projects at the Dead Sea Constitute GOI Purchases of Services from Dead Sea Works, Ltd.
 - Comment 2: Whether Commerce Should Find Specific Accelerated Depreciation, Tax Consolidation, or Tax Deductions Related to Listing Shares on a Stock Market Under the Encouragement of Industry Law (EIL) 1969
 - Comment 3: Whether Commerce Should Calculate the Benefit from EIL's Accelerated Depreciation Program as a Deferral of Taxes
 - Comment 4: Whether Commerce Should Attribute to Dead Sea Magnesium Ltd. Subsidies Received by Rotem Amfert Negev Ltd.
 - Comment 5: Whether Income Tax Reduction Provided Under the Encouragement of Capital Investment Law is Countervailable
 - Comment 6: Whether Dead Sea Works, Ltd. Received a Benefit from the Provision of Groundwater for Less than Adequate Remuneration
 - Comment 7: Whether Commerce Correctly Applied a Tier 3 Benchmark Analysis and Whether Commerce Should Account for Profit
- IX. Recommendation

[FR Doc. 2019-25891 Filed: 11/27/2019 8:45 am; Publication Date: 11/29/2019]